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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/313,532	05/13/1999	ROGER YOUMAN		4047

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EXAMINER

GRANT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/12/2001

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/313,532

Applicant(s)  
Youman et al.

Examiner  
Christopher Grant

Art Unit  
2611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1,5-7 20) ☐ Other:

Art Unit: 2611

## **DETAILED ACTION**

### ***Re-issue Applications***

1. This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

2. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

The original ribboned copy of the patent has not been surrendered. See MPEP 1416.

### ***Oath/Declaration***

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Art Unit: 2611

- (a) The oath or declaration must state that “*all errors being corrected in the reissue application up to the time of the filing of the oath or declaration arose without any deceptive intention on the part of the applicant*”. See 37 CFR 1.175 (a)(2).
- (b) The oath or declaration must state that the person signing has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration as required under 37 CFR 1.63 (b) (1).

4. Claims 1-55 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

5. Claim 40 is rejected under 35 U.S.C. 251 as being an improper recapture of claimed subject matter deliberately canceled in the application for the patent upon which the present reissue is based. As stated in *Ball Corp. v. United States*, 221 USPQ 289, 295 (Fed. Cir. 1984):

The recapture rule bars the patentee from acquiring, through reissue, claims that are of the same or broader scope than those claims that were canceled from the original application.

Art Unit: 2611

Claim 40 is improper recapture because the claimed subject matter is similar to the subject matter that was deliberately amended in claim 1 of paper # 10 (filed 5-17-1996) in original application 08/346,603.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 24, 27-28, 32, 38-40, 43, 44, 48 and 54-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Hoarty.

Considering claim 24, Hoarty discloses an electronic television program guide for use in connection with a television receiver (e.g. figure 30) comprising:

- a) a wireless remote control (14) (see the entire reference including but not limited to figure 30);
- b) a data processor (275, 276, 276 and associated circuits - figures 28-29);
- c) a video display generator (2733, 275, 276); and
- d) wherein a user may search for a title (FIND BY SHOW-figure 37) to be displayed by selecting n characters (ABCDE) (figure 38) with the remote control (14), wherein n is greater than one (in this case n= 5), wherein each of the n characters may be selected (e.g B) with the wireless remote

Art Unit: 2611

control (14) from a plurality of displayed alphanumeric characters (ABCDE<sup>f</sup>) (see col. 18, line 63 - col. 19, line 45).

Claim 27 is met by changing displays illustrated in figures 38-40.

Claim 28 is met by the selection of the characters using cursor keys on remote control 14 (see column 19).

Claim 32 is met by figure 36.

Claims 38-39 are met by the visually identifiable and displayable alphanumeric characters which are only letters as illustrated in figures 37-40 and described at columns 18-19.

Considering claim 40, Hoarty discloses a method for using a electronic television program guide used in connection with a television receiver that displays a plurality of television programs comprising:

- a) generating control commands with a wireless remote control (14) (see the entire reference including but not limited to figure 30);
- b) receiving the control commands from the remote control (14) with a data processor (275, 276, 276 and associated circuits - figures 28-29);
- c) displaying an alphabetically-arranged visual display of a plurality of television program titles with a video display generator (2733, 275, 276); and

Art Unit: 2611

d) wherein a user may search for a title (FIND BY SHOW-figure 37) to be displayed by using a remote control (14) to select n characters (ABCDE - figure 38; or B-figure 39) from a plurality of displayed alphanumeric characters (ABCDE), wherein n is greater than or equal to one (see col. 18, line 63 - col. 19, line 45).

Claim 43 is met by changing displays illustrated in figures 38-40.

Claim 44 is met by remote control (14) described at column 19.

Claim 48 is met by figure 36.

Claims 54-55 are met by the visually identifiable and displayable alphanumeric characters which are only letters as illustrated in figures 37-40 and described at columns 18-19.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 29-30, 33-37, 45-46 and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoarty.

Art Unit: 2611

Considering claims 29-30 and 45-46, Hoarty discloses a remote control (14) that interacts with the display illustrated in figures 37-40. However, he fails to specifically disclose that the non-alphanumeric keys comprise arrow keys or up and down arrow keys as recited in the claims.

The examiner takes Official Notice that it is notoriously well known in the art to select various alphanumeric items on a television screen using an arrow key or up and down arrow keys. Arrow keys on a remote control facilitate the user with the ability to easily select items on an interactive television screen.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Hoarty's system (if necessary) to include arrow keys or up and down arrow keys for the advantage of facilitating the user with the ability to easily select items on an interactive television screen.

As for claims 33-37 and 49-53, Hoarty fails to disclose (a) highlighting program titles, (b) scrolling through titles and selecting highlighted titles, (c) display of titles for programs scheduled for the same day at the same time and (d) titles for programs scheduled for display on a plurality of user-defined favorite channels as recited in the claims.

The examiner takes Official Notice that it is notoriously well known in the art to provide an electronic program guide system and method comprising highlighting program titles, scrolling through titles and selecting highlighted titles, displaying of titles for programs scheduled for the same day at the same time and titles for display programs scheduled for display on a plurality of



Art Unit: 2611

user-defined favorite channels for the advantages of (i) facilitating the user with a graphical user interface with visual feedback of selected items, (ii) informing the viewer of what is being broadcast at a particular time so that the viewer can make a desired selection from among a plurality of titles, and (iii) providing a redacted personal listing of program titles from a vast list of program titles from many sources.

It would have been obvious to one of ordinary skill in the art to modify Hoarty's system to include (a) highlighting program titles, (b) scrolling through titles and selecting highlighted titles, (c) display of titles for programs scheduled for the same day at the same time and (d) titles for programs scheduled for display on a plurality of user-defined favorite channels, for the advantages of (i) facilitating the user with a graphical user interface with visual feedback of selected items, (ii) informing the viewer of what is being broadcast at a particular time so that the viewer can make a desired selection from among a plurality of titles, and (iii) providing a redacted personal listing of program titles from a vast list of program titles from many sources.

### ***Conclusion***

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

Art Unit: 2611


(703) 872-9314 (for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Grant whose telephone number is (703) 305-4755. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (703) 306 0377.

  
**Christopher Grant**  
**Primary Examiner**  
**December 5, 2001**

**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes **incorporated** therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.